

## HOUSE BILL NO. 141

INTRODUCED BY F. WILMER

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING POSTEMPLOYMENT BENEFITS FROM CERTAIN CALCULATIONS IN THE INTERNAL SERVICE FUND TYPE AND IN THE ENTERPRISE FUND TYPE CONSISTENT WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AMENDING SECTIONS 16-2-108, 17-8-101, AND 23-7-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 16-2-108, MCA, is amended to read:

**"16-2-108. Disposition of money received.** (1) The department may purchase liquor from money deposited to its account in the enterprise fund. The department shall pay from its account in the enterprise fund its administrative expenses associated with the sale of liquor, subject to the limits imposed by legislative appropriation. An obligation created or incurred by the department may not be a debt or claim against the state of Montana but must be payable by the department solely from funds derived from the operation of state liquor sales. The department shall pay into the state treasury to the credit of the enterprise fund the receipts from the sale of liquor and all taxes collected by it. Taxes and the net proceeds from the operation of state liquor sales must be transferred to the general fund.

(2) All liquor license fees and permit fees collected by the department must be deposited into the department's liquor enterprise fund.

(3) The department shall pay from its account in the liquor enterprise fund:

(a) expenses associated with administering liquor licensing and fee collection; and

(b) expenses associated with investigations pursuant to its agreement with the department of justice.

(4) (a) The net proceeds of the liquor enterprise fund must be transferred to the general fund. For the purpose of calculating net proceeds, other postemployment benefits involving expenses or liabilities resulting from an implicit rate subsidy must be excluded from the calculation.

(b) (i) As used in this subsection (4), "other postemployment benefits" means nonpension benefits provided to employees after employment ends that are determined in accordance with generally accepted

1 accounting principles.

2 (ii) The term does not include termination benefits such as payments for accrued sick leave, annual leave,  
3 or compensatory time."

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5 **Section 2.** Section 17-8-101, MCA, is amended to read:

6 **"17-8-101. Appropriation and disbursement of money from treasury.** (1) For purposes of complying  
7 with Article VIII, section 14, of the Montana constitution, money deposited in the general fund, the special revenue  
8 fund type (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by  
9 the terms of an agreement, such as a contract, trust agreement, or donation), and the capital projects fund type,  
10 with the exception of refunds authorized in subsection (4), may be paid out of the treasury only on appropriation  
11 made by law.

12 (2) Subject to the provisions of subsection (8), money deposited in the enterprise fund type, debt service  
13 fund type, internal service fund type, private purpose trust fund type, agency fund type, and state special revenue  
14 fund from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract,  
15 trust agreement, or donation, may be paid out of the treasury:

16 (a) by appropriation; or

17 (b) under general laws, or contracts entered into in pursuance of law, permitting the disbursement if a  
18 subclass is established on the state financial system.

19 (3) The pension trust fund type is not considered a part of the state treasury for appropriation purposes.  
20 Money deposited in the pension trust fund type may be paid out of the treasury pursuant to general laws, trust  
21 agreement, or contract.

22 (4) Money paid into the state treasury through error or under circumstances such that the state is not  
23 legally entitled to retain it and a refund procedure is not otherwise provided by law may be refunded upon the  
24 submission of a verified claim approved by the department.

25 (5) Authority to expend appropriated money may be transferred from one state agency to another,  
26 provided that the original purpose of the appropriation is maintained. The office of budget and program planning  
27 shall report semiannually to the legislative finance committee concerning all appropriations transferred under the  
28 provisions of this section.

29 (6) (a) Fees Subject to subsection (6)(b), fees and charges for services deposited in the internal service  
30 fund type must be based upon commensurate costs. The legislative auditor, during regularly scheduled audits

of state agencies, shall audit and report on the reasonableness of internal service fund type fees and charges and on the fund equity balances.

(b) Other postemployment benefits involving expenses or liabilities resulting from an implicit rate subsidy must be excluded from the calculation of fees and charges that are required to be based upon commensurate costs.

(c) (i) As used in this subsection (6), "other postemployment benefits" means nonpension benefits provided to employees after employment ends that are determined in accordance with generally accepted accounting principles.

(ii) The term does not include termination benefits such as payments for accrued sick leave, annual leave, or compensatory time.

(7) The creation of accounts in the enterprise fund or the internal service fund must be approved by the department, using conformity with generally accepted accounting principles as the primary approval criteria. The department shall report annually to the office of budget and program planning and the legislative finance committee on the nature, status, and justification for all new accounts in the enterprise fund and the internal service fund.

(8) Enterprise and internal service funds must be appropriated if they are used as a part of a program that is not an enterprise or internal service function and that otherwise requires an appropriation. An enterprise fund that transfers its ending fund balance to the general fund is subject to appropriation. The payment of funds into an internal service fund must be authorized by law."

**Section 3.** Section 23-7-402, MCA, is amended to read:

**"23-7-402. Disposition of revenue.** (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) (a) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue. Net revenue must be transferred quarterly from the enterprise fund established by 23-7-401 to the state general fund. Other postemployment benefits involving expenses or liabilities resulting from an implicit rate subsidy must be excluded from the calculation of net revenue.

1       (b) (i) As used in this subsection (3), "other postemployment benefits" means nonpension benefits  
2 provided to employees after employment ends that are determined in accordance with generally accepted  
3 accounting principles.

4       (ii) The term does not include termination benefits such as payments for accrued sick leave, annual  
5 leave, or compensatory time.

6       (4) The spending authority of the lottery may be increased in accordance with this section upon review  
7 and approval of a revised operation plan by the office of budget and program planning."

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9       NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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